

Cynthia Kawakami
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To perry.sobel@navy.mil, JohnJ. OGrady/R5/USEPA/US@EPA, Bradley Benning/R5/USEPA/US@EPA, Joseph Dufficy/R5/USEPA/US@EPA, robert.darnell@usdoj.gov, georgia.vlahos@cnet.navy.mil
cc
Subject R Lavin, Jeep letter

Perry, thanks for your note. I don't have all of the answers, but here are a few observations. The letter that Jeep sent to the State is an older one that I had not seen before yesterday. For CERCLA response actions, U.S. EPA requires and relies on its own supervised investigations/assessments for determining the nature and extent of contamination for U.S. EPA CERCLA cleanup purposes. I cannot address the true meaning behind the Lavin letter to the State, although I imagine that Lavin wanted to convey the "best impression" to the State for RCRA closure purposes. The State of Illinois handled all RCRA aspects of the R. Lavin Site and I'm not sure if their definition of "facility" included off-site areas. I would venture to guess, however, that the RCRA "facility" was limited to the boundaries of the Lavin property. The State can probably give you the definitive answer to your question. With regard to post-closure financial assurance, it is my understanding that Lavin has not provided the State with the required post-closure financial assurance because of lack of money/bankruptcy. The State does have a claim in bankruptcy, however, that (I think) covers that issue? That's my "two cents" worth! Cynthia

Thanks for forwarding this, Cynthia. Do EPA and NAVFAC, SouthDiv agree with the City of North Chicago's representations made to the State in this letter, especially the bottom line conclusion that "there is no impact originating from the R. Lavin site"? When they say "no impact originating from the R. Lavin Site" I'm not sure if they mean "to the environment," in general, or only to off-site groundwater? In other words, do they mean no impact to surface water (i.e., Pettibone Creek)? And is this letter also implying to the State there is no impact from wind-blown or surface runoff releases from soil to groundwater?

Also, are their conclusions about the background wells valid in the CERCLA context? Can you tell me if the point of compliance for RCRA purposes is limited to the vicinity of the regulated unit and was not adjusted to account for possible contribution to an off-Lavin CERCLA site like Pettibone Creek? In other words the RCRA program is looking at one groundwater snapshot onsite, but it is possible that higher concentrations have already migrated to surface water and were left by EPA and/or the State to be resolved later as a regional Pettibone Creek issue? If so, then I think the letter is misleading, especially to the City of North Chicago who may think this is a "clean bill of health."

Finally, can someone tell me if, under 40 CFR §264.148 (Incapacity of owners or operators, guarantors, or financial institutions), Lavin actually has a surety or other financial responsibility guarantor for closure and post-closure that is different from the pool of insurance companies that is currently being pursued by the Creditors' Committee?

US EPA RECORDS CENTER REGION 5



400271

It does not appear that groundwater at the Lavin property is discharging to Pettibone Creek (at least not via the drainage ditch located at the southern end of the Lavin property)

Please do not hesitate to call if you have any questions

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